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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/755,488	01/05/2001	Roger P. Hoffman	P2-87	5105
7590	06/13/2006		EXAMINER	
Philip M. Weiss, Esq. Weiss & Weiss Suite 251 300 Old Country Road Mineola, NY 11501			ROSEN, NICHOLAS D	
			ART UNIT	PAPER NUMBER
			3625	
DATE MAILED: 06/13/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/755,488	HOFFMAN, ROGER P.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Nicholas D. Rosen	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 22 March 2006.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-8,11 and 14-21 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-8,11 and 14-21 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 20 March 2001 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

**DETAILED ACTION**

Claims 1-8, 11, and 14-21 have been examined.

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 22, 2006 has been entered.

All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4, 6, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baatz ("An Auction with the Buyer Completely in Charge") in view of Trommer ("GEIS Launches TPNPost, A Net-Based Sourcing Solution"). As per claim 1, Baatz discloses a method for a buyer to request a quotation, the method comprising: inputting or choosing attributes of a specific product into a database (second and third columns on page S58); inputting the quantity of product (ibid., and first column on S61); inputting delivery specifications (second column on page S58); selecting suppliers to whom to submit the request for quotation (third column on S58); and submitting said request for quotation to said suppliers (third column on S58). Baatz is not explicit about the database as such, but the disclosure of the retention and availability of information inherently requires a database of some sort, while the disclosed online interaction suggests an electronic database. Baatz does not disclose a buyer selecting suppliers to whom to submit a request for quotation, but this is well known, as taught by Trommer (paragraph beginning "The system enables buyers"). Hence, it would have been

obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the buyer to select suppliers to whom to submit a request for quotation, for the obvious advantage of enabling the buyer to select any suppliers (at least, any suppliers from a list) whom the buyer considers suitable, while excluding any suppliers whom the buyer may consider unsuitable (e.g., because of previous bad experiences).

As per claim 4, Baatz discloses at least one of said suppliers providing responses to the buyer (third column on page S58).

As per claim 6, Baatz discloses that said request for quotation has an expiration mechanism ("time limit for bidding (as specified by the buyer)") in the third column of page S58).

As per claim 20, Baatz discloses rating quotes from the suppliers (note "three lowest bidders" in the third column on page S58, which implies rating which are lowest).

As per claim 21, Baatz discloses submitting quote from suppliers to a broker (Sorcify being a broker; third column on page S58).

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baatz and Trommer as applied to claim 1 above, and further in view of official notice. Baatz does not disclose that the quotation (or request for quotation) is submitted to the suppliers via a wireless method, but official notice is taken that it is well known for information to be transmitted via wireless methods (e.g., to and from cell phones, microwave transmission of Internet data, etc.). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the request for

quotation to be submitted to the suppliers via a wireless method, for the obvious advantage of making the request for quotation readily available to suppliers in contact with a communications network at least in part via wireless means.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baatz and Trommer as applied to claim 1 above, and further in view of Breen, Jr., et al. (U.S. Patent 6,598,027). Baatz does not disclose the supplier analyzing said quotation with a logistics database to provide freight quotes, but Breen teaches a database accessible to a supplier for providing freight quotes to suppliers and buyers (column 7, lines 19-64; column 10, lines 37-39). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the supplier to analyze said quotation with a logistics database to provide freight quotes, for the obvious advantage of enabling the supplier to set appropriate bids including freight costs.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baatz and Trommer as applied to claim 4 above, and further in view of official notice. Claim 5 is held to be obvious for essentially the reasons set forth above regarding claim 2.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baatz and Trommer as applied to claim 1 above, and further in view of official notice. Baatz discloses comparing quotations from different suppliers (third column of page S58; first column of page S61), but does not expressly disclose that this is done with regard to the attributes of a specific product, the quantity of the product, and the delivery specifications. However, Baatz discloses introducing the three lowest bidders to the

buyer, rather than simply selecting the lowest (page S58, column 3), implying that decisions may be made on the basis of factors other than price, and Baatz discloses an RFQ for a particular quantity of a specific product, to be delivered to different cities (page S61, first column), implying evaluating quotes on such criteria. Official notice is taken that it is well known to compare quotes from different suppliers on such bases as specific attributes, quantity, and delivery specifications. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to compare the quotation from at least one supplier to quotations from other suppliers with regard to these factors, for the obvious advantage of choosing the most suitable supplier for the buyer's wants.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baatz and Trommer as applied to claim 1 above, and further in view of official notice. Baatz does not disclose copying agreed upon terms into a purchase order, but Baatz does teach carrying out a purchase after a supplier has submitted terms, and been accepted by the buyer (third column of S58; page S61); and official notice is taken that it is well known to copy information. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to copy agreed upon terms into a purchase order, for the obvious advantage of arranging and documenting a purchase according to agreed upon terms, without the trouble of rewriting the same information.

**Claims 8, 11, and 14-18**

Claims 8 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baatz ("An Auction with the Buyer Completely in Charge") in view of official notice. As per claim 8, Baatz discloses a system for a buyer to request a quotation, the system comprising: a request for quotation form (second column on page S58); and a means for delivering said request for quotation form to a seller (second and third columns on page S58). Baatz discloses storing quotations from sellers; and allowing the buyer to compare said quotations (second and third columns on page S58). Baatz is not explicit about the system comprising a database as such, but the disclosure of the retention and availability of information inherently requires at least one database of some sort. Baatz does not expressly disclose that said request for quotation form comprises a list of product specifications, but does disclose that, "The item as well as payment and delivery terms must be specified precisely," and discloses "a form online with detailed questions for the buyer to answer about the RFQ." Official notice is taken that lists are well known for specifying pluralities of details. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the form to comprise such a list, for the obvious advantage of making the various specifications conveniently available to potential sellers.

As per claim 15, Baatz does not disclose a system for performing a credit check of a buyer (although Baatz does disclose asking for detailed information about buyers, first column of page S58), but official notice is taken that performing credit checks on buyers is well known. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to include such a system,

for the obvious advantage of not selling valuable items to insolvent or untrustworthy purchasers.

As per claim 16, Baatz does not disclose a database of buyer credit profiles (although Baatz does disclose asking for detailed information about buyers, first column of page S58), but official notice is taken that maintaining such buyer credit profiles is well known. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to include a database of buyer credit profiles in the system, for the obvious advantage of judging the creditworthiness of buyers, and not selling valuable items to insolvent or untrustworthy purchasers.

As per claim 17, Baatz does not disclose a database comprising a listing of previous sales, but official notice is taken that it is well known to maintain records of previous sales. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the system to comprise a database comprising a listing of previous sales, for such obvious advantages as checking sellers' records of delivering products as advertised and on schedule, and buyers' records of paying as promised.

As per claim 18, Baatz does not disclose a searchable database of buyer/seller quote history, but does disclose that buyers can watch the bidding process (third column on page S58), showing that a quote history is maintained to some degree; and official notice is taken that searchable databases are well known. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the system to include a searchable database of buyer/seller

quote history, for such obvious advantages as resolving any disputes that may arise on bidding, and analyzing the operations of the system with a view toward improvements.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baatz and official notice as applied to claim 8 above, and further in view of Breen, Jr., et al. (U.S. Patent 6,598,027). Claim 11 is essentially parallel to claim 3, and rejected on the same grounds set forth above in rejecting claim 3.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baatz and official notice as applied to claim 8 above, and further in view of the article, "Robertson, Stephens Founder Sanford R. 'Sandy' Robertson Invests in LIMITrader Securities; Takes Stake in New York Firm Pioneering Electronic Bond Trading," hereinafter "Robertson". Baatz does not disclose that the system comprises a secured chat room, but "Robertson" teaches a trading system including a secure chat room for the buyer and seller to negotiate in (paragraph beginning "LIMITrader.com's online bond trading solution"). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to include a secured chat room, for the stated advantage of facilitating negotiations between the buyer and the seller.

It is noted that claim 8 uses "means for" language. Nonetheless, it is not treated as invoking 35 U.S.C. 112, sixth paragraph. If Applicant wishes to invoke 35 U.S.C. 112, sixth paragraph, Applicant should provide an explicit statement to that effect. 35 U.S.C. 112, sixth paragraph states:

An element in a claim for a combination may be expressed as a means or step for performing a specified function without the recital of

structure, material or acts in support thereof, and such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.

### ***Response to Arguments***

Applicant's arguments filed September 13, 2005, have been fully considered but they are not persuasive, and are in some cases mooted by new grounds for rejection. Applicant argues, with regard to claim 1, as amended, that Baatz does not teach that the buyer selects which suppliers the buyer want to submit the RFQ to, which is true, and overcomes the earlier rejection of claim 1 under 102. However, Examiner has now rejected claim based on Baatz in view of Trommer, one of the prior art references which does teach the buyer selecting suppliers to whom an RFQ is to be submitted.

Regarding claim 20, Applicant argues that there are many factors which go into a rating, and the lowest bid is not a rating. Examiner replies that claim 20 nowhere specifies what factors, or how many factors, go into rating; therefore, rating quotations purely according to how low they are qualifies as rating them. Regarding various other claims, Applicant argues that Baatz does not disclose their features, and concludes that they are therefore not obvious. Examiner replies that this merely establishes that they are not anticipated by Baatz, but in no way proves that they are not obvious in view of Baatz in combination with other references, or well-known facts of which unchallenged official notice has been taken.

The common knowledge or well-known in the art statements in the previous office action are taken to be admitted prior art, because Applicant did not traverse Examiner's taking of official notice.

### ***Response to Arguments***

Applicant's arguments filed March 22, 2006 have been fully considered but they are not persuasive. Applicant argues, with regard to claim 1, that the teachings of Baatz and Trommer are contradictory, since the idea of Baatz is to have the system select the suppliers, while Trommer teaches a system where buyers select their own supplier (actually, where buyers select multiple suppliers to which RFQ's are sent). (To further clarify, Baatz discloses that the Sorcity system communicates buyers' RFQ's to "all relevant supplier members," sending "automatic e-mail notifications to qualified seller

members who sell products in a given . . . category"; the buyers then select the suppliers whose bids they accept.) Examiner replies that a feature not disclosed by the primary reference is not thereby contradictory to the primary reference, or else nothing could be found unpatentable on the grounds of obviousness that was not anticipated by a single reference. The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Modifying the Sorcity system described by Baatz to let the buyer select suppliers to whom to submit an RFQ – letting the buyers do this directly, as well as by selecting a category – is suggested by Trommer, and does not require a drastic modification of Baatz; it does not destroy the base reference.

Regarding claim 4, Applicant argues that Baatz teaches the supplier providing the response to Sorcity, rather than to the buyer. Examiner replies claim 4 does not recite at least one of the suppliers providing a quotation directly to said buyer, and therefore Baatz's disclosure of suppliers providing bids via the Sorcity system meets the claim limitation; furthermore, Baatz expressly discloses that Sorcity.com provides a way for buyers and sellers to ask and answer questions about an RFQ.

Regarding claim 2 (and claim 5 as well), Examiner took official notice that it is well known for information to be transmitted via wireless methods (e.g., to and from cell

phones, microwave transmission of Internet data, etc.). Applicant argues that neither Baatz nor Trommer suggests that RFQ's can be submitted and responded to via wireless methods. Examiner replies that that does not make the claim allowable; limitations can be taught by additional references, or can be taken official notice of, with valid motivations to combine supplied. Furthermore, because microwave transmission is part of the Internet, and because people communicate with via Internet using cell phones, etc., wireless transmission might well occur in the operation of Sorcity, without Baatz mentioning it or the operators of Sorcity.com having any need to concern themselves with it.

Regarding claim 7, Applicant's argument is not entirely clear, as Applicant writes that although "it is known to compare to compare quotes from different suppliers based on the above factors . . . such method is not known of obvious, and therefore the official Notice is not correct." (Remarks, page 11.) Examiner replies that if something is admitted to be known, then it is known, and official notice is correct.

Regarding claim 19, Applicant argues that Baatz specifically states that once the buyer selects the winning bid and confirms the selection with Sorcity, the buyer and seller exchange settlement terms independent of Sorcity (true), and then writes, "Therefore, Baatz does not teach carrying out a purchase after a supplier has submitted terms and has been accepted buyer." Examiner replies that this is a non sequitur. Furthermore, Applicant writes that there is not Official Notice to show that such information is exchanged as described in the claims of the patent [application]. Examiner replies that official notice was taken, and not traversed by Applicant; if

Applicant believes there are differences between the noticed fact and the claims of the application, it is necessary to specify the claims, set forth the differences, and explain how the facts of which official notice was taken differ from the particular claim limitations.

Regarding claim 8, Applicant argues that claim 8 requires that the system allows the buyer to compare the quotations from the sellers, but Baatz specifically teaches that Sorcity reviews the quotations. Examiner replies that Baatz specifically teaches the system introducing the three lowest bids to the buyer, to compare quotations and other information.

Regarding claim 15, Applicant argues that claim 15 requires that the system performs a credit check of a buyer. Examiner replies that this is not precisely the case; claim 15 recites that the system of claim 8 further comprises a system for performing a credit check of a buyer. Applicant writes that Baatz teaches that the only party in the transaction that has to share a credit card number is the seller, which is true; Applicant concludes that, therefore, the only party which is having its credit checked is the seller, not the buyer, which is not necessarily the case, and in any case does not make it non-obvious to perform a credit check of a buyer. Performing a credit check on someone (e.g., looking up his credit rating from his name and social security number) does not require that he share a credit card number. If one seeks a home mortgage or a car loan, for example, the lender will check one's credit rating, although the payment is not by credit card.

Regarding claim 16, essentially the same issues arise as with claim 15.

Regarding claim 17, Applicant's statement is not entirely coherent, but seems to be intended to be that since Baatz does not teach a database comprising a listing of previous sales, such a listing is not obvious. Examiner took unchallenged official notice that such databases were well known, and provided valid motivation for combining this feature with the disclosure of Baatz.

Regarding claim 18, Applicant writes, "The Examiner states that Baatz that the buyer can watch the bidding process. This does not allow a separate buyer and seller to understand the terms of other buyers and sellers." Examiner replies that claim 18 recites a searchable database of buyer/seller quote history, with no recitation of who does the searching. There is nothing in claim 18 about allowing a separate buyer and seller to understand the terms of other buyers and sellers, so claim 18 cannot be allowable based on any alleged failure of Baatz to meet this non-limitation. Furthermore, Baatz discloses, "Buyers can watch the bidding process."

Regarding claim 14, Applicant argues that the system described in Baatz relates to a system where the buyer communicates with Sorcity and then Sorcity communicates with the seller, and there is no communication between the buyer and the seller. Examiner replies that Baatz discloses, "The buyers and seller then exchange product and settlement independent of Sorcity," as well as disclosing that sellers can ask questions to clarify the RFQ via e-mails with Sorcity, which seems to imply buyers providing clarification if needed.

The common knowledge or well-known in the art statements in the previous office action are taken to be admitted prior art, because Applicant did not traverse Examiner's taking of official notice.

***Conclusion***

All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b).  
Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas D. Rosen, whose telephone number is 571-272-6762. The examiner can normally be reached on 8:30 AM - 5:00 PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's current acting supervisor, Robert Pond, can be reached at 571-272-6760. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Non-official/draft communications can be faxed to the examiner at 571-273-6762, or e-mailed to [Nicholas.Rosen@USPTO.gov](mailto:Nicholas.Rosen@USPTO.gov).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Nicholas D. Rosen*  
**NICHOLAS D. ROSEN**  
**PRIMARY EXAMINER**

June 8, 2006